

FILED  
DISTRICT CLERK OF  
JEFFERSON CO TEXAS  
3/21/2019 4:23 PM  
JAMIE SMITH  
DISTRICT CLERK  
D-203545

NO. \_\_\_\_\_

MICHAEL REEVES AND WIFE,  
LARAE REEVES

IN THE DISTRICT COURT

VS.

\_\_\_\_\_ JUDICIAL DISTRICT

UNITED PROPERTY & CASUALTY  
INSURANCE COMPANY (AKA UPC  
INSURANCE COMPANY)

JEFFERSON COUNTY, TEXAS

**PLAINTIFFS' ORIGINAL PETITION**

**TO THE HONORABLE JUDGE OF SAID COURT:**

NOW COMES MICHAEL REEVES and wife, LARAE REEVES, hereinafter referred to as "Plaintiffs," complaining of and about UNITED PROPERTY & CASUALTY INSURANCE COMPANY (AKA UPC INSURANCE COMPANY), hereinafter referred to as "Defendant," and for cause of action shows unto the Court the following:

**Discovery Level**

Discovery in this case is intended to be conducted under Level 2 of Rule 190 of the Texas Rules of Civil Procedure.

**Parties**

Michael Reeves and LaRae Reeves are individuals whose address is 2701 Miller St., Port Neches, Texas 77651.

United Property & Casualty Insurance Company (aka UPC Insurance Company), an insurance company and may be served by serving its registered agent, CT Corporation System, 1999 Bryan Street, Suite 900, Dallas, Texas 75201-3136. Service of said Defendant as described above is requested.



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**Exhibit  
A-2**

**Venue**

This court has subject matter jurisdiction over this case because the amounts in controversy are within the jurisdictional limits of this court. All or most of the occurrences made the basis of this lawsuit were in Jefferson County, Texas.

**Factual Background**

Plaintiff's home is located at 2701 Miller, Port Neches, Jefferson County, Texas. Plaintiff purchased insurance from Defendant, including an endorsement for foundation coverage for their home. The policy Foundation Coverage page of said policy is attached as Exhibit "1" to this petition.

Subsequently and while the coverage was in full force and effect, the foundation sustained damages due to a failure of the home's plumbing system located within the foundation. Plaintiffs initially reported the foundation problem at the end of November 2018. An Estimate and Settlement of Damages was provided December 5, 2018 and is attached as Exhibit "2". This Estimate and Settlement statement estimated damage at \$27,648.87 but claimed that there was an endorsement limiting coverage to \$5,000.00.

Plaintiffs provided additional information on December 18, 2018 and at Defendant's request, supplemented with video documentation on December 19, 2018. On January 7, 2019, one of Defendant's adjusters informed Plaintiffs that their claim was under review. When no response was received, Plaintiffs sent a written demand on January 17, 2019 demanding that Defendant affirm the claim and pay for the damages associated with the claim. Plaintiffs asserted their claim was covered under the Foundation Coverage endorsement.

Written demand for actual damages has been given to the Defendant, and more than sixty (60) days have elapsed after such demand without payment of same. Plaintiffs have complied with



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all conditions precedent to the maintenance of this suit. To date, Defendant has not affirmed or denied the claim.

**Cause of Action for Breach of Contract**

Plaintiffs claim was not precluded by the endorsement for Limited Water Backup and Sump discharge or Overflow but was fully covered pursuant to the Foundation Coverage endorsement. Defendant's failure to pay Plaintiff's claim for damages which were covered under the policy and Foundation Coverage endorsement issued by Defendant to Plaintiffs constitutes a breach of contract for which Plaintiffs now sue.

**Cause of Action for Unfair Settlement Practice**

Defendant has acted or failed to act in bad faith regarding settlement of the Reeves' claim, including but not limited to: (1) misrepresenting to the Reeves a material fact or policy provision relating to coverage at issue; (2) failing to attempt in good faith to effectuate a prompt, fair, and equitable settlement of the Reeves' claim with respect to which Defendant's liability has become reasonably clear; (3) failing to promptly provide to a policyholder a reasonable explanation of the basis in the policy, in relation to the facts or applicable law, for the insurer's denial of a claim or offer of a compromise settlement of a claim; (4) failing within a reasonable time to either affirm or deny coverage of the claim to the Reeves or submit a reservation of rights to a policyholder; (5) refusing to pay a claim without conducting a reasonable investigation with respect to the claim and by failing to attempt in good faith to effectuate a prompt, fair, and equitable settlement of the Reeves' claim, to which the insurer's liability was reasonably clear. Defendant, knowingly engaged in unfair claim settlement practices in violation of Section 541.060 of the Texas Insurance Code, for which Plaintiffs now sue.



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**Attorney Fees and Additional Damages**

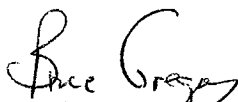
As a proximate and/or producing cause of the aforementioned wrongful conduct of Defendant, Plaintiffs have suffered actual damages under the insurance contract in an amount in excess of the minimum jurisdictional limits of this Court, plus interest which amount should be increased pursuant to the provisions of the Texas Deceptive Trade Practices Act and Section 541.152 of the Texas Insurance Code because Defendant knowingly committed the wrongful acts made the basis of this suit.

Plaintiffs have retained the Gregory Law Firm to represent them herein to enforce their contractual rights and have agreed to pay the firm reasonable and necessary attorney's fees, for which Defendant is liable and for which Plaintiffs seek recovery, including any appeals to other courts.

**WHEREFORE, PREMISES CONSIDERED,** Plaintiffs pray that the Defendant be cited to appear and answer herein, upon final hearing hereof, Plaintiffs do have and recover of and from the Defendant actual damages, treble damages, punitive damages, interest (both pre-judgment and post-judgment), attorney's fees, cost of Court and all other relief, at law and in equity, to which Plaintiffs may show themselves justly entitled to receive.

Respectfully submitted,

**GREGORY LAW FIRM**

By: 

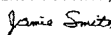
Bruce Gregory  
1617 Magnolia Ave.  
Port Neches, Texas 77651  
Tel: (409) 727-0900  
Fax: (409) 727-0902  
TBA No.: 24002182  
Attorney for Plaintiffs



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**EXHIBIT "1"**HOMEOWNERS  
UPC 04 68 12 14**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.****FOUNDATION COVERAGE – TEXAS****SECTION I – PROPERTY COVERAGES**

Under **E. Additional Coverages**, the following coverage is added:

**Foundation Coverage**

- a. We cover settling, cracking, shrinking, bulging or expansion of the foundation, floor slab or footings that support the dwelling caused by seepage or leakage of water or steam from within a plumbing, heating, air conditioning or automatic fire protective sprinkler system.

This coverage includes the cost of tearing out and replacing any part of the building necessary to repair the system from which the leakage or seepage occurred.

- b. We do not cover loss to the system from which the water or steam escaped.
- c. Our limit of liability for this coverage will not exceed an amount equal to 15% of the Coverage A limit applicable on the date of loss for all coverages / losses combined.
- d. This coverage does not increase the limit of liability that applies to the damaged covered property.

**SECTION I – PERILS INSURED AGAINST**

The following revisions are made for the purposes of this endorsement only:

For Form HO 00 03:

Paragraph A.2.c.(5) is replaced by the following:

- (5) Constant or repeated seepage or leakage of water or steam or the presence or condensation of humidity, moisture or vapor, over a period of weeks, months or years, from within a plumbing, heating, air conditioning or automatic fire protective sprinkler system, or from within a household appliance, except as specifically provided by this endorsement.

Paragraph A.2.c.(6)(f) is replaced by the following:

- (f) Settling, shrinking, bulging or expansion, including resultant cracking, of pavements, patios, footings, foundations, walls, floors, roofs or ceilings, except as specifically provided by this endorsement;

For Form HO 00 05:

Paragraph A.2.d. is replaced by the following:

- d. Constant or repeated seepage or leakage of water or steam or the presence or condensation of humidity, moisture or vapor, over a period of weeks, months or years, from within a plumbing, heating, air conditioning or automatic fire protective sprinkler system, or from within a household appliance, except as specifically provided by this endorsement.

Paragraph A.2.e.(6) is replaced by the following:

- (6) Settling, shrinking, bulging or expansion, including resultant cracking, of pavements, patios, footings, foundations, walls, floors, roofs or ceilings, except as specifically provided by this endorsement;

Except as stated in this endorsement, we do not provide coverage for any loss precluded by another provision in this policy.

All other provisions of this policy apply.

UPC 04 68 12 14

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**EXHIBIT "2"**

December 5, 2018

Larae Reeves  
2701 Miller St.  
Port Neches, TX 77651

Re: Insured: Larae Reeves  
Claim Number: 2018TX125790  
Policy Number: 43100070959002  
Date of Loss: November 2, 2018  
Cause of Loss: Water Backup/Overflow  
Loss Location: 2701 Miller St., Port Neches, TX 77651

**ESTIMATE AND SETTLEMENT OF DAMAGES**

Dear Policyholders,

Thank you for the opportunity to handle the your claim. We appreciate their business and hope to continue servicing your family in the future.

Enclosed is our estimate of repairs in the amount of \$\$27,648.87 however, the insured has a policy endorsement UPC 04 95 1214 Limited Water Backup and Sump Discharge or Overflow which limits the coverage to \$5,000.00. The payment represents settlement of damages under the following Coverage(s):

	Building	Other Structures	Contents	ALE/FRV	Total
Limited Water Backup and Sump Discharge or Overflow Policy limit \$5,000					
Replacement Cost	\$ 27,648.87				\$ 27,648.87
Over Policy Limits	\$ (22,648.87)				(\$-22648.87)
Non-Recoverable Depreciation					
Prior Payment					
Deductible					
Net Payment	\$ 5,000.00	\$ -	\$ -	\$ -	\$ 5,000.00

Payment of your claim is being mailed separately as follows:

PO Box 1011 • St. Petersburg, FL 33731-1011 • 1-888-CLM-DEPT • Claims@UPCInsurance.com • upcinsurance.com

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Re: Claim Number: 2018TX125790

Your policy provides a \$5,000 limit for damages resulting from a covered Limited Water Backup and Sump Discharge or Overflow loss. Your deductible was applied to that amount that was in excess of the policy limit before your limit was applied to the loss of your dwelling. These amounts are reflected above accordingly.

This settlement check represents the unrestricted tender of the amount we believe you are owed as a result of your loss. You are permitted to use this check at this time.

If your mortgage holder has been shown as a payee on your check, please understand we are obligated to do so according to the terms of your policy. Please contact your mortgage holder regarding their procedures for endorsing payments.

Should have any additional questions regarding the settlement, or have any other information you would like for us to consider in regards to this claim, please contact the undersigned at the information shown below.

Sincerely,

Janettra Mcpherson  
Claims Adjuster  
United Insurance Management LC,  
Servicing Claims on Behalf of UPC Insurance  
Phone: 727-895-7737 ext 5957  
E-mail: [Claims@UPCinsurance.com](mailto:Claims@UPCinsurance.com)

Enc. Endorsement page

ALD report

Estimate

*F.S. 817.234(1)(b) Any person who knowingly and with intent to injure, defraud, or deceive any insurer files a statement of claim or an application containing any false, incomplete, or misleading information is guilty of a felony of the third degree.*

PO Box 1011 • St. Petersburg, FL 33731-1011 • 1-888-CLM-DEPT • [Claims@UPCinsurance.com](mailto:Claims@UPCinsurance.com) • [upcinsurance.com](http://upcinsurance.com)

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Certified Document Number: 2047505 Total Pages: 7

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JAMIE SMITH  
JEFFERSON COUNTY DISTRICT CLERK  
1085 PEARL STREET, ROOM 203, BEAUMONT, TX 77706

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JEFFERSON CO TEXAS  
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D-203545

### REQUEST FOR PROCESS

All sections must be completed for processing this request.

Section 1:  
Cause No. \_\_\_\_\_ Date 3-21-19  
Style: Michael Reeves and wife LaRae Reeves  
VS United Property & Casualty Insurance Company (aka UPC Insurance Company)

Section 2:  
Check Process Type:  
☒ Citation    ☐ Precept to Serve / Notice of Hearing/Notice to Show Cause  
☐ Temporary Restraining Order  
☐ Application for Protective Order / Temporary (Ex Parte) Protective Order  
☐ Notice of Registration of Foreign Judgment    ☐ Citation by Posting  
☐ Writ of \_\_\_\_\_    ☐ Other \_\_\_\_\_  
☐ Citation by Publication\*- Newspaper: \_\_\_\_\_  
☒ Check box if you would like the District Clerk's Office to make copies for your service. (\$1.00 per page per pleading for copies for service)

Section 3:  
Title of Document/Pleading to be attached for service: Plaintiffs'  
Original Petition

Note: You must furnish one copy of the document/pleading for each party served.

Section 4: PARTIES TO BE SERVED (Please type or print):  
1. Name: CT Corporation System  
Address: 1999 Bryan Street, Suite 900  
City: Dallas State: TX Zip: 75201-3136  
2. Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_



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3. Name: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

4. Name: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

5. Name: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Section 5

**Check Service Type:**

- |  |   |
|--|---|
| <input type="checkbox"/> No Service                | <input type="checkbox"/> Secretary of State                             |
| <input type="checkbox"/> Sheriff                   | <input type="checkbox"/> Commissioner of Insurance                      |
| <input type="checkbox"/> Constable Pct.            | <input type="checkbox"/> Out of County                                  |
| <input type="checkbox"/> Out of State              | <input type="checkbox"/> Private Process <input type="checkbox"/> Other |
| <input checked="" type="checkbox"/> Certified Mail |   |

Section 6 (ONLY if Section 7 does not apply)

Attorney Name: Bruce Gregory

Address: 1617 Magnolia Avenue

Port Neches TX 77651  
City State Zip

Attorney's Telephone No. (409) 727-0900 Attorney's Bar No. 24002182

Section 7 (ONLY if Section 6 does not apply)

Pro-Se Name: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_  
City State Zip

Telephone No. \_\_\_\_\_

Section 8

**Check Delivery Type:**

- ☐ Hold for pick up ☐ Mail to Attorney



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Cause No: D-0203545 Date: 3/22/19 Receipt No: 443124

Style: MICHAEL REEVES ET UX  
vs UNITED PROPERTY AND CASUALTY INSURANCE COMPANY

Paid By: GREGORY, BRUCE P  
Amt Paid: 352.00 EFILE032138186-0 Bal Due:

10.00	RECORDS MANAGEMENT	10.00	COURT RECORD PRESERVATIO
10.00	RECORDS ARCHIVE FEE	5.00	SECURITY OF COURTS AND J
50.00	COUNTY FILING FEE	7.00	COPIES
50.00	STATE FILING FEE		
10.00	LIBRARY FEE		
15.00	MEDIATION CENTER FEE		
15.00	STENO		
5.00	SECURITY FEE		
10.00	INDIGENT FEE		
42.00	JUDICIAL SUPPORT		
5.00	APPELLATE JUDICIAL SYSTE		
30.00	ELECTRONIC FILING FEE		

JAMIE SMITH, CLERK DISTRICT COURTS  
Jefferson County, Texas

By: \_\_\_\_\_  
ODBC Deputy



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